

with Marcussen, cited by the examiner in rejecting the independent claims 1 and 5 as amended in the parent application.

Marcussen's device measures cream from the top of a bottle just under the cap and terminates well above the bottom of a milk bottle, there being no point in extending the device downwardly any further. Carr's gauge is fastened to the base well below the inside or outside bottom of a bottle placed in the Carr device. Carr makes no suggestion of purposely terminating the edge of the gauge or purposely having the bottom of the gauge coincide with the outside bottom of the bottle or plane coincident with the bottom of the bottle.

In Carr, to be accurate, the scale must begin with the inside bottom of the bottle and the applicant's scale must relate to the inside bottom of the bottle. Thus, the gauge and the scale are separate elements in the Carr device as in applicant's device.


Applicant makes specific use of the bottom of the gauge or termination of the edge of the gauge coinciding with the plane of the outside of the bottle bottom to measure bottle contents even though the scale measures bottle contents relative to the inside bottom of the bottle. Carr makes no suggestion of terminating the Carr gauge at the outside bottom of a bottle. In contrast, the termination of applicant's gauge coincident with the outside bottom of the bottle is a part of using applicant's gauge and scale in measuring bottle contents.

Applicant's claims 1 and 5 attached both now contain limitations contrasting the outside bottom of the gauge and the inside bottom of the scale and therefore distinguish over Carr in

view of Marcussen. The remaining claims 2-4 and 6-8 incorporate claims 1 and 5 by reference, respectively, and should be allowable upon the allowance of claims 1 and 5.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

Replace the first sentence on page 1 with: – This application is a continuation of application no. 09/369,758, filed August 6, 1999, and claims the benefit of provisional patent application no. 60/095,554 filed August 6, 1998. –

In the Claims:

1. (Amended) A gauge having at least two edges, a top and a bottom, at least one of the edges shaped to engage and match the corresponding external surface of a bottle in a direction parallel to the bottle axis, said at least one edge extending from the outside bottom of the corresponding bottle,

a scale extending along the shaped edge, said scale having spacing changing as a function of the change in cross-sectional area of the bottle interior in the direction of the bottle axis, and said scale beginning or ending measurement with the bottom of the bottle interior.

Add New Claims:

5. A gauge having at least two edges, a top and a bottom, at least one of the edges shaped to engage and match the corresponding external surface of a bottle in a direction parallel to the bottle axis, said gauge bottom lying in a plane coincident with the plane of the outside of the bottle bottom,

a scale extending along the shaped edge, said scale having spacing changing as a function of the change in cross-sectional area of the bottle interior in the direction of the bottle axis, and said scale beginning or ending measurement with the bottom of the bottle interior.

6. The gauge of claim 5 wherein two edges are shaped to engage and match the external surfaces of bottles parallel to the bottle axes, the two edges being of dissimilar shape.

7. The gauge of claim 5, including at least one display area at the top of the gauge.

8. A plurality of gauges according to claim 5 wherein the gauges differ from one another by the edge shapes that match a plurality of complementary bottles.